IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 584 of 2004

Between:

K. Gopal, S/o Yellaiah,
R/o 5-67, Kotakonda Post, Narayanpet Mandal,. Mahaboobnagar District.

..... PETITIONER

AND

1 The Person-in-charge/Chair Person, Narayanpet PACS,

Narayanpet Post, Narayanpet Mandal, Mahaboobnagar

District.
2 The Divisional Co-operative Officer, Mahaboobnagar,

Mahaboobnagar District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of writ of Mandamus declaring the order of 1st Respondent in Rc.No. 1/2003-2004, dated 29-11-2003 suspending the petitioner from service as Secretary, is illegal, arbitrary and without jurisdiction and contrary to the item 12 of Special Byelaws and section 32 (7) of APCS Act 1964 and consequentially direct the Respondents reinstate the petitioner into service with all consequential benefits including payment of full salaries etc,

Counsel for the Petitioner:MR.S.SIVA PRASAD

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following :

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ORDER:

The petitioner questions the order of the 1st respondent in placing his services as Secretary under suspension by proceedings dated 29-11-2003. It is stated that the order of the 1st respondent is without jurisdiction. The term of the elected body of the Society is only for a period of 5 years and the election to the said Society was held on 27-07-1995 and the term expired by 27-07-2000. Therefore, a person-in-charge has been appointed under Section 32(7) of the A.P.Cooperative Societies Act, 1964 (for brevity "the Act") and the term of the person-in-charge expired by 27-07-2003 and after expiry of his term, the person-in-charge passed the order on 29-11-2003 and therefore the said order has been passed without jurisdiction. It is further stated that the person-in-charge has no power to suspend the petitioner.

2. It is stated in the counter affidavit that by virtue of the orders of the Government in G.O.Ms.No.241 Agriculture and Co-operation (Co-operation VI) Department dated 18-09-2003, the committees appointed under Section 32 (7) (a) of the Act are deemed to have been continued from the date of expiry i.e., from 27-07-2003 and therefore the 1st respondent is perfectly justified in passing the order. As far as the power of suspension is concerned, it is stated that under Section 31-A (15) of the Act, the managing committee of the Society is vested with such power and the committee can place any Officer or Servant of the Society under suspension in accordance with Section 59 of the Act. It is also stated that Byelaw No.12 of the Bye-laws of the Society contemplates that a Secretary of the Primary Agricultural Co-operative Society shall be suspended only by the Managing Committee in consultation with the District Level Committee and not otherwise. Under Byelaw No.12 (2) of the special Byelaws of the Society, no punishment shall be inflicted on

any employee without conducting any proper enquiry. It is further stated that the suspension is made only pending enquiry to keep him away from the records during the course of enquiry in order to facilitate smooth and fair enquiry.

3. The allegation against the petitioner is that he has misappropriated the funds of the Society to a tune of Rs.1, 17,481-75 Ps. (Rupees One lakh Seventeen thousand four hundred and eighty one seventy five paise). Therefore, I am satisfied that the 1st respondent is empowered to place the petitioner under suspension under Section 31-A (15) of the Act and the Byelaws of the Society. As the term of the person-in-charge is also extended by the Government, I am not inclined to interfere with the suspension order. However having regard to the facts and circumstances of the case and as the suspension cannot be for an indefinite period, the respondents are directed to initiate and complete the disciplinary proceedings as expeditiously as possible preferably within a period of four (4) months from the date of receipt of a copy of this order.

4. The Writ Petition is accordingly disposed of. No order as to costs.

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V.ESWARAIAH, J.

28th July, 2004.

CHVN/BSS

ASSISTANT REGISTRAR.

// TRUE COPY//

SECTION OFFICER.

To

1 The Person-in-charge/Chair Person, Narayanpet PACS,

Narayanpet Post, Narayanpet Mandal, Mahaboobnagar

District.

2 The Divisional Co-operative Officer, Mahaboobnagar

Mahaboobnagar District.

3. Two C.Cs. to the G.P.for Cooperation, High Court

Buildings,Hyderabad,(OUT)

4. Two C.Ds.